IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 87 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

and

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

BHAVANBHAI JERAMBHAI SOLANKI

Appearance:

MR ASHISH H SHAH for Appellant

MS ARCHANA U AMIN for Respondents

CORAM : MR.JUSTICE A.R.DAVE

and

MR.JUSTICE J.R.VORA

Date of decision: 12/04/2001

ORAL JUDGEMENT (Per : MR.JUSTICE A.R.DAVE)

1. Being aggrieved by the Award dated 20th July, 1999, passed in Motor Accident Claim Petition No. 93 of 1993, by the Motor Accident Claims Tribunal (Auxiliary), Amreli, this Appeal has been filed by Gujarat State Road Transport Corporation, whose vehicle was involved in the accident. The facts giving rise to the present Appeal in nutshell are as under :

On 18th March, 1993, when deceased Rameshbhai and his brother in law Dineshbhai had met with an accident with S.T. Bus, Dineshbhai suffered injuries whereas Rameshbhai expired on account of accident. Heirs of the deceased filed Motor Accident Claim Petition No. 93 of 1993 for claiming compensation to the tune of Rs. 4 lacs. After considering the evidence and after hearing the learned advocates, the Tribunal awarded a sum of Rs. 1,90,000/alongwith 12% interest thereon from the date of filing of the petition till the date of deposit of the amount as compensation in favour of the claimants, who are the present respondents.

3. Learned Advocate Shri Ashish H. Shah appearing for the appellant Corporation has submitted that the Award is unjust and improper because the Tribunal has awarded more amount by way of compensation. He has submitted that negligence of the Driver of the S.T.Bus had not been fully established and yet the Corporation is made liable to pay the compensation to the legal representatives of deceased Rameshbhai.

4. On the other hand, learned Advocate Ms. Archana U. Amin, appearing for the respondents - original claimants has submitted that the Award is just and proper and the amount of compensation awarded to the claimants is absolutely just.

5. We have heard the learned advocates and have gone through the award and relevant exhibits which were shown to us by the learned advocates. Upon perusal of the said record, it is very clear that eye witness Shri Dineshbhai (Exh. 26) who was a pillion rider, has deposed that when the deceased Rameshbhai and deponent Dineshbhai were going on the bicycle of deceased Rameshbhai on main road near Keriya Railway Crossing, the bus belonging to the S.T. Corporation had come from the opposite side and had knocked down him and deceased Rameshbhai. From the deposition of Dineshbhai it appears that the S.T. Bus Driver was driving the bus in a rash and negligent

manner. Even on the rough road, the bus was driven at a high speed, and possibly, for that reason, the Driver could not stop the bus, which resulted into an accident. Upon perusal of the evidence of Dineshbhai (Exh.26), especially in view of the fact that the Driver of the Bus had not entered into the witness box, we are of the view that the Tribunal was absolutely justified in coming to the conclusion that the Driver of the bus was negligent.

6. So far as the quantum of compensation is concerned, it appears from the deposition of Bhavanbhai (Exh. 22) that the deceased was working in a Diamond factory and was doing work of cutting and polishing of diamonds. The Tribunal has come to the conclusion that the deceased must be earning approximately Rs.1,500/p.m. The amount of income presumed by the Tribunal cannot be treated on higher side for the reason that to earn around Rs. 1,500/- p.m. in diamonds polishing work, is absolutely normal. After deducting 1/3 amount of the income, a sum of Rs. 1,000/- has been considered for the purpose of determining the dependency benefits. The said amount also appears to be reasonable and looking to the 25 years of age of the deceased, multiplier of 15 is also justified. A sum of Rs. 10,000/- has been awarded towards loss of expectation of life. We do not find that the said amount is on the higher side.

7. After hearing the concerned advocates and looking to the facts of the case, we are of the view that the Tribunal has not committed any error in awarding a sum of Rs. 1,90,000/- with interest at the rate of 12% per annum from the date of filing of the petition till the date of realisation of the said amount. In the circumstances, we dismiss the Appeal with no order as to costs.

(A.R. Dave, J.)

(J.R. Vora, J.)

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